IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

GEORGE AND CATHY VANDERGRIFF and INSTITUTE FOR PRINCIPLED POLICY,	:	Case No.: 1:08-cv-381
Plaintiffs,	:	
vs.	:	
CLERMONT COUNTY PUBLIC LIBRARY BOARD OF TRUSTEES,	:	
Defendant.	:	

VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT, PRELIMINARY AND PERMANENT INJUNCTIONS, AND DAMAGES

COME NOW, George and Cathy Vandergriff and Institute for Principled Policy, by and through their attorneys, and respectfully request this Court to issue a declaratory judgment, preliminary and permanent injunctions, damages, and costs and fees for violating their federal and state constitutional rights. The Defendant, Clermont Public Library Board of Trustees (hereinafter the "Library"), is prohibiting Plaintiffs from engaging in expressive activities in a generally available public forum solely due to the religious viewpoint of those activities. In support thereof, Plaintiff alleges the following:

JURISDICTION AND VENUE

1. This civil rights action under 42 U.S.C. § 1983 raises federal claims under the First and Fourteenth Amendments to the United States Constitution and a state claim under Section 7, Article I of the Ohio Constitution.

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2. This Court has original jurisdiction over the federal law claims by operation of 28 U.S.C. §§ 1331 and 1343 and has supplemental jurisdiction over the state law claim pursuant to 28 U.S.C. § 1367.

3. This Court has authority to issue the requested injunctive relief under 28 U.S.C. § 1343, the requested declaratory relief under 28 U.S.C. §§ 2201-02, the requested damages under 28 U.S.C. § 1343, and costs and attorneys' fees under 42 U.S.C. § 1988.

4. Venue is proper under 28 U.S.C. § 1391 in the United States District Court for the Southern District of Ohio because a substantial part of the events giving rise to the claim occurred within the District.

PARTIES

5. Plaintiffs GEORGE AND CATHY VANDERGRIFF reside and pay taxes in Clermont County, Ohio. As owners of real property in Clermont County, a portion of the real property taxes they pay are allocated to the Clermont County Public Library.

6. Plaintiff INSTITUTE FOR PRINCIPLED POLICY (the "Institute" or "IPP") is a nonprofit educational and religious corporation organized under the laws of the State of Ohio. Institute for Principled Policy has as its purpose to improve the social welfare of Ohio by educating the general public and decision makers regarding social, moral and policy issues from an explicitly biblical perspective.

7. Defendant CLERMONT COUNTY PUBLIC LIBRARY BOARD OF TRUSTEES is a body politic and corporate of the State of Ohio, and a political subdivision thereof. The Board is responsible for providing general oversight and establishing operational policies for the Clermont County Public Library, a county free public library.

FACTUAL ALLEGATIONS

Background

8. The Vandergriffs and the Institute sincerely believe that that the Bible is the inspired Word of God and as such is the source of all wisdom and knowledge, including all wisdom and knowledge concerning financial matters.

9. Consistent with and in an effort to practice their sincere religious beliefs, the Vandergriffs and IPP desire to conduct a biblically-based financial planning workshop in Clermont County that is open to the general public.

The Library's Meeting Room Use Policy

10. The Clermont County Public Library Meeting Room Use Policy (the "Policy") states that the Library's "meeting rooms are available to all community groups and non-profit organizations engaged in activities that further the Library's mission to be responsive to community needs and to be an integral part of our community." (A true and correct copy of the Policy is attached hereto as Exhibit A.)

11. The Policy states further, "When the Library's meeting rooms are not being used for library-related programs, the rooms are available for non-profit use by community groups. The groups may use meeting rooms for private meetings or to present programs for the general public."

12. In general, the Policy subjects all use of meeting rooms to the ministerial approval of designated Library staff to determine "if the organization or group meets the conditions of the policy."

13. Specifically prohibited by the Library's policy, however, is the "use of Library meeting rooms for political, religious, or social events, or any other reasons specifically designated by the Board of Trustees." The Policy includes no definition of "religious events."

14. The Policy further states, "Permission to use the meeting room does not constitute endorsement by the Library of the group or the ideas presented."

15. Upon information and belief, the Library has allowed other community groups or organizations to use its meeting rooms to discuss financial issues. Indeed, upon information and belief, the Library has permitted government officials from the Village of Amelia to use the meeting room in the Amelia Branch on at least three separate occasions (March 31, 2008, April 23, 2008 and May 21, 2008) for meetings to discuss Village government issues, including financial planning.

The Library's Rejection of Plaintiffs' Request to Use a Meeting Room

16. On or about December 21, 2007, Cathy Vandergriff requested in person to use a meeting room at the Amelia Branch of the Library for a financial planning meeting. The Library employee to whom Mrs. Vandergriff spoke asked if she intended to charge admission to the event. When Mrs. Vandergriff indicated that the seminar would be a free ministry to the general public, the employee asked if she would be quoting the Bible in the presentation. Mrs. Vandergriff answered that she would be using the Bible, and the employee informed her that the Library's Policy would therefore not permit her to use the meeting room.

17. On March 21, 2008, Mr. Vandergriff submitted in person a written Request for Use of Meeting Room form, again seeking permission to use a meeting room for a biblically based financial planning discussion which would be sponsored by the Institute.

18. Mr. Vandergriff handed the Request form to a Library employee, and the two began to discuss possible dates and times that a room would be available. During this discussion, the Library employee noted that Mr. Vandergriff had described the meeting topic as "Biblically Based Financial Planning" and indicated that, for that reason, the application would likely not be approved. Mr. Vandergriff submitted the application and asked to be notified of the Library's decision.

19. On March 25, 2008 a Library employee contacted Mr. Vandergriff by telephone and asked if they would be quoting Bible verses in the seminar. When Mr. Vandergriff indicated that he would be using the Bible, the employee informed him that his request would therefore be rejected.

20. That same day, Mr. Vandergriff returned to the Library and obtained a copy of his rejected Request form. The rejection notice contained the following handwritten notes at the bottom:

> 3/25/08 Contact Mr. Vandergriff
> will be quoting bible versus [sic]
> explained our meeting room policy

(A true and accurate copy of the Request with the rejection notice is attached as Exhibit B.)

21. The Library did not offer any other reason why Plaintiffs' event conflicted with the Library's Meeting Room Policy.

22. Plaintiffs desire to use the Library's meeting room for a biblically-based financial planning seminar and also desire to hold other similar events or seminars in the Library's meeting rooms in the future, but are prohibited from doing so under the Library's Policy.

LEGAL ALLEGATIONS

23. All alleged acts of the Library, its officers, agents, servants, employees, and persons acting at its behest, were done and continue to be done under the color and pretense of state law, including the statute, regulations, customs, policies, and usages of the Clermont County Public Library Board of Trustees.

24. As alleged in greater detail below, the Policy, both on its face and as applied to Plaintiffs, violates Plaintiffs' federal and state constitutional rights.

25. As a direct result of the Library's violation of Plaintiffs' federal and state constitutional rights, as alleged below, Plaintiffs are suffering irreparable harm for which there is no adequate remedy at law.

26. As a direct result of the Library's violation of Plaintiffs' federal and state constitutional rights, as alleged below, Plaintiffs are entitled to recover nominal and compensatory damages.

FIRST CLAIM FOR RELIEF

Violation of Plaintiffs' Rights to the Freedom of Speech Under the First Amendment to the United States Constitution

27. The allegations contained in all preceding paragraphs are incorporated herein by reference.

28. The Library has intentionally made its meeting rooms generally available to the public for a broad range of speech that is fully protected by the First Amendment.

29. Religious speech, including the speech that occurs at Plaintiffs' presentation, is protected speech under the First Amendment.

30. The Library's Policy and the Library's enforcement thereof:

a. Single out religious speech for discriminatory treatment;

b. Condition access to generally available public facilities on the content of the applicant's speech;

c. Discriminate against speech on the basis of the speaker's viewpoint;

d. Restrain constitutionally-protected speech in advance of its expression, with virtually no standards to guide the discretion of Library officials charged with enforcing the policies; and

e. Chill the speech of Plaintiffs and other individuals and organizations subject to the Policy.

31. The Library has no compelling reason that would justify denying Plaintiffs or other religious speakers access to generally-available public facilities solely on the basis of the viewpoint and content of their speech.

32. Accordingly, the Library's Policy and its enforcement thereof violate Plaintiffs' rights to the freedom of speech under the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

SECOND CLAIM FOR RELIEF

Violation of Plaintiffs' Rights to the Free Exercise of Religion Under the First Amendment to the United States Constitution

33. The allegations contained in all preceding paragraphs are incorporated herein by reference.

34. Plaintiffs desire to meet for religious expression and activity motivated by their sincerely-held religious beliefs.

35. The Library's Meeting Room Use Policy is neither facially neutral nor generally applicable.

36. The Library's enforcement of its Policy selectively imposes a substantial burden on Plaintiffs' sincerely-held religious beliefs by restricting their access to generally available public facilities based upon the religious nature of their beliefs, speech, and conduct.

37. The Library has no compelling reason that would justify denying Plaintiffs, or any other organization, equal access to a general available public forum solely on the basis of their religious beliefs, speech, and conduct.

38. Accordingly, the Library's Policy and its enforcement thereof violate Plaintiffs' rights to the free exercise of religion under the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

THIRD CLAIM FOR RELIEF

Violation of Plaintiffs' Rights to the Equal Protection of the Law Under the Fourteenth Amendment to the United States Constitution

39. The allegations contained in all preceding paragraphs are incorporated herein by reference.

40. The Equal Protection Clause of the Fourteenth Amendment requires the government to treat similarly-situated persons equally.

41. Upon information and belief, the Library has allowed similarly-situated organizations to use Library meeting rooms and engage in a wide variety of speech activities, but has refused to allow Plaintiffs the same access, solely because of the religious nature of Plaintiffs' speech.

42. The Library has no compelling reason that would justify excluding Plaintiffs from these generally available public facilities solely on the basis of the religious nature of Plaintiffs' speech.

43. Accordingly, the Library's Policy and its enforcement thereof violate Plaintiffs' rights to the equal protection of the laws under the Fourteenth Amendment to the United States Constitution.

FOURTH CLAIM FOR RELIEF

Violation of Plaintiffs' Rights to the Due Process of Law Under the Fourteenth Amendment to the United States Constitution

44. The allegations contained in all preceding paragraphs are incorporated herein by reference.

45. The Library's Policy is vague and lacks sufficient objective standards to cabin the discretion of Library officials.

46. The lack of objective standards allows the Library to enforce the policy in an *ad hoc* and discriminatory manner based on the content or viewpoint of speech.

47. The Library cannot articulate a compelling reason that would justify excluding Plaintiffs from a generally available public forum solely on the basis of Plaintiffs' religious expression.

48. Accordingly, the Library's Policy and its enforcement thereof violate Plaintiffs' rights to due process under the Fourteenth Amendment to the United States Constitution.

FIFTH CLAIM FOR RELIEF

Violation of Plaintiff's Religious Freedom Rights Under Article I, Section 7 of the Ohio Constitution

49. The allegations contained in all preceding paragraphs are incorporated herein by reference.

50. Pursuant to Article I, Section 7 of the Ohio Constitution, the free exercise of religion is a guaranteed right and shall not be subject to discrimination by the government.

51. Plaintiffs' desire to meet for religious expression and activity is motivated by their sincerely-held religious beliefs.

52. The Library's enforcement of its Policy selectively imposes a substantial burden on Plaintiffs' sincerely-held religious beliefs by restricting their access to generally available public facilities based upon the religious nature of their beliefs, speech, and conduct.

53. The Library has no compelling reason that would justify denying Plaintiffs, or any other organization, equal access to a general available public forum solely on the basis of their religious beliefs, speech, and conduct.

54. Accordingly, the Library's Policy and its enforcement thereof violate Plaintiffs' rights to the free exercise of religion under Article I, Section 7 of the Ohio Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs George and Cathy Vandergriff and Institute for Principled Policy pray for judgment against Defendant and respectfully request this Court to:

A. Preliminarily and permanently enjoin the enforcement of the Library's Meeting Room Use Policy to the extent it violates Plaintiffs' federal and state constitutional rights;

B. Declare that the Library's Meeting Room Use Policy is facially unconstitutional and violates Plaintiffs' rights as guaranteed under the First and Fourteen Amendments to the United States Constitution, and Article I, Section 7 of the Ohio Constitution;

C. Declare that the Library's Meeting Room Policy is unconstitutional as applied to Plaintiffs, and violates Plaintiffs' rights guaranteed under the First and Fourteenth Amendments to the United States Constitution and Article I, Section 7 of the Ohio Constitution;

D. Award Plaintiffs nominal and compensatory damages arising from the acts of the Defendant;

E. Award Plaintiffs their costs and expenses of this action, including reasonable attorneys fees, in accordance with 42 U.S.C. § 1988 and other applicable law;

F. Grant any other relief that the Court deems equitable, just, and proper;

G. Adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such declarations shall have the force and effect of final judgment; and

H. Retain jurisdiction of this matter as necessary to enforce the Court's orders.

Respectfully submitted,

/s/ *David R. Langdon*
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VERIFICATION

Pursuant to 28 U.S.C. § 1746, I, the undersigned, declare under penalty of perjury that:

1. I am a citizen of the United States and a resident of the State of Ohio;

2. I have read the foregoing Verified Complaint and the facts as alleged are true and correct.

Dated this 4th day of June, 2008

George Vandergriff

George Vandergriff

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I, the undersigned, declare under penalty of perjury that:

1. I am a citizen of the United States and a resident of the State of Ohio;

2. I have read the foregoing Verified Complaint and the facts as alleged are true and correct.

Dated this 4th day of June, 2008

Cathy Vandergriff

Cathy Vandergriff

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I, the undersigned, declare under penalty of perjury that:

1. I am a citizen of the United States and a resident of the State of Ohio;

2. I am an agent for Institute for Principled Policy, a Plaintiff in this action, and am authorized to speak on behalf of that organization; and

3. I have read the foregoing Verified Complaint and the facts as alleged are true and correct.

Dated this 4 day of June, 2008

Chuck Michaelis